

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION**

**HOPE ELLIS, ET AL.,**

**PLAINTIFFS,**

**VS.**

**CIVIL ACTION NO. 3:04CV160-P-D**

**KOPPERS INDUSTRIES, ET AL.,**

**DEFENDANTS.**

**ORDER**

This matter comes before the court upon Plaintiffs' Motion to Strike Defendants' Motions or Alternatively to Hold Defendants' Motions in Abeyance or Alternatively for an Extension of Time to Respond to Defendants' Motions [55-1]. Upon due consideration of the motion and the response filed thereto, the court finds as follows, to-wit:

On January 21, 2005, the court entered an Order consolidating the instant case with the lead case of *Beck, et al. v. Koppers, et al.*, Civil Action No. 3:03cv60-P-D. Said Order also provided that henceforth all documents in the *Ellis* case were to be filed in *Beck*. On March 30, 2005 the court entered an Order which, among other things, stayed this case until further order of the court.

Despite these two rulings, Defendant Jill Blundon filed a Motion to Dismiss under Fed. R. of Civ. P. 9(b) and 12(b)(6) and a Motion to Sever and Dismiss on June 16, 2005. The motions should not have been filed at all given the court's stay of *Ellis* and its consolidation with *Beck*. Defendant Jill Blundon did not file a motion to lift the stay.

Accordingly, the court concludes that the plaintiffs' motion to strike the aforementioned motions should be granted. Defendant Jill Blundon maintains that it is unfair to keep this *Ellis* case on the docket "merely to gather dust." However, given the court's severance of 98 plaintiffs in the

*Beck* case with the remaining 12 plaintiffs to have separate trials, in the interests of judicial economy there is no practical reason to act on the 948 plaintiffs' claims in *Ellis* (which will almost certainly be severed at the appropriate time), until those of the 12 in *Beck* are resolved.

**IT IS THEREFORE ORDERED AND ADJUDGED** that:

(1) Plaintiffs' Motion to Strike Defendants' Motions [55-1] is **GRANTED**; thus

(2) Defendant Jill Blundon's Motion to Sever and Dismiss [49-1] and Jill Blundon's Motion to Dismiss [50-1] are **STRICKEN**; and

(3) The parties are instructed once again to file any motions regarding the *Ellis* case in the lead case of *Beck, et al. v. Koppers, Inc.*, Civil Action No. 3:03cv60-P-B, but only at the point in which the court lifts the stay in *Ellis*.

**SO ORDERED** this the 24<sup>th</sup> day of February, A.D., 2006.

/s/ W. Allen Pepper, Jr.  
W. ALLEN PEPPER, JR.  
UNITED STATES DISTRICT JUDGE